

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

IN RE: JPMORGAN CHASE & CO.  
SHAREHOLDER DERIVATIVE  
LITIGATION

This Document Relates To:

ALL ACTIONS

Master File No. 08 Civ. 974 (DLC)

**NOTICE OF DEFENDANTS' MOTION TO DISQUALIFY ROBERT L. GARBER  
AS PLAINTIFF AND DISMISS THIS DERIVATIVE ACTION**

PLEASE TAKE NOTICE that upon the Verified Shareholder Derivative Complaint of Robert L. Garber filed in this consolidated action, the accompanying Memorandum of Law in Support of Defendants' Motion To Disqualify Robert L. Garber as Plaintiff and Dismiss This Derivative Action, and upon all prior pleadings and proceedings herein, individual defendants and nominal defendant JPMorgan Chase & Co. hereby move this Court before the Honorable Denise L. Cote, United States District Judge, at the United States Courthouse, 500 Pearl Street, New York, New York, for an Order dismissing plaintiff's Complaint in its entirety on the ground that plaintiff Robert L. Garber has not shown that he can fairly and adequately represent the interest of the shareholders of JPMorgan Chase, and thus, this derivative action may not be maintained under Rule 23.1 of the Federal Rules of Civil Procedure.

Dated: New York, New York  
August 15, 2008

Respectfully submitted,

/s/ Sharon L. Nelles  
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